

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36793 of 2018

Arising Out of PS. Case No.-3 Year-2016 Thana- MAHILA P.S. District- Banka

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1. Sabita Devi, Wife of Parshuram Rai
 2. Parshuram Rai, Son of Late Hari Prasad Rai, Both are resident of Village- English, P.S. Amarpur, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bandana Kumari, Wife of Jitendra Rai, Daughter of Suraj Rai, resident of Village- English, P.S. Amarpur, District- Bhagalpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Jha, Advocate
For the Opposite Party/s : Mr. Shantanu Kumar, APP

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

6 26-03-2026 1. Heard learned counsel for the petitioner as well as
learned APP for the State.

2. The present application has been preferred by the petitioners for quashing the order dated 22.05.2018 passed by the learned S.D.J.M., Banka (hereinafter referred to as 'Trial Court') in connection with G.R. No.69 of 2016 arising out of Banka Mahila P.S. Case No.03 of 2016 wherein the petition dated 07.10.2017 filed by the petitioners herein under Section 239 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.') for their discharge was dismissed by the learned Trial Court.

3. The facts of the case, in brief, as per the written



report of the informant, Smt. Bandana Kumari (O.P. No.2), is that she was married to Jitendra Rai about three years prior to the institution of the case. After marriage, she resided with her husband at Delhi, where he was employed in a private company, and during this period she became pregnant. Subsequently, she was brought to her matrimonial village, where it is alleged that the accused persons, including the present petitioners, who are her mother-in-law (petitioner no.1) and father-in-law (petitioner no.2), subjected her to cruelty, assaulted her on trivial issues, and demanded a sum of Rs. 1,00,000/- as dowry. It is further alleged that on 10.12.2015, she was driven out of her matrimonial home, following which she returned to her parental house. Despite intervention through a *Panchayati*, the dispute could not be resolved, leading to the lodging of the FIR under Sections 341, 323, 498A, 504, 506/34 of the Indian Penal Code, 1860 and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

4. Upon investigation, the police submitted charge-sheet against the accused persons, including the present petitioners, and cognizance for offence under Sections 341, 323, 498A, 504, and 506/34 of the Indian Penal Code and under Sections 3 and 4 of the Dowry Prohibition Act was taken by the learned Magistrate. Thereafter, the petitioners herein filed an



application under Section 239 of the Cr.P.C. seeking discharge, *inter alia*, on the grounds that the informant (O.P. No.2) had never resided at the matrimonial home with the petitioners, that the marriage between the informant (O.P. No.2) and their son was a love marriage performed without their consent, and that they had already disassociated themselves from their son prior to the alleged occurrence. It was also submitted that the allegations are false and motivated by ulterior considerations.

5. The learned Trial Court, after hearing both parties and upon perusal of the case diary and materials on record, found that there were sufficient grounds to proceed against the petitioners for the offences alleged and accordingly rejected the discharge petition *vide* the impugned order dated 22.05.2018. Aggrieved by the same, the petitioners have approached this Court.

6. Learned counsel for the petitioners submits that the impugned order dated 22.05.2018 is unsustainable in law, having been passed in a routine and mechanical manner without proper appreciation of the materials on record. He submits that the foundational allegation of cruelty and demand of dowry is inherently improbable, inasmuch as the informant herself has admitted, including in the proceedings of A.B.P. No. 104/2016,



that she had been residing with her husband at Delhi and had never lived at the matrimonial home of the petitioners. Learned counsel further submits that there was neither occasion nor opportunity for the petitioners to subject the O.P. No.2 to cruelty or to raise any demand for dowry. It is submitted that the learned Trial Court failed to consider this vital aspect, which goes to the root of the prosecution case.

7. Learned counsel for the petitioners, moreover, submits that the marriage between the O.P. No.2 and their son was a love marriage performed without their consent, and due to the strained relationship, the petitioners had already disassociated themselves from their son much prior to the alleged occurrence, which fact is supported by materials available in the case diary as well as the declaration brought on record. Learned counsel submits that the allegations in the FIR are vague, omnibus and lacking in specific particulars so far as the present petitioners are concerned, and have been levelled only on account of their relationship with the husband. Learned counsel puts his reliance on the judgment of the Hon'ble Apex Court in ***Kahkashan Kausar @Sonam and Ors. v. State of Bihar and Ors.***, reported in ***(2022) 6 SCC 599***. It is thus submitted that no *prima facie* case is made out against the



petitioners, and the continuation of the criminal proceeding would amount to abuse of the process of the Court, warranting interference by this Court.

8. Learned APP for the State submits that the learned Trial Court has rightly rejected the discharge petition after due consideration of the materials available on record. It is submitted that the allegations made in the FIR and witnesses recorded during investigation, *prima facie* disclose the commission of offences under the relevant provisions of the Indian Penal Code and the Dowry Prohibition Act.

9. Despite valid service of notice upon O.P. No.2 and grant of sufficient opportunities, none appears on her behalf to contest the present application. Accordingly, this Court proceeds to consider the matter in her absence.

10. I have heard learned counsel for the petitioners and learned APP for the State, and have carefully perused the impugned order as well as the materials available on record. The core issue that arises for consideration is whether the materials on record disclose sufficient grounds for proceeding against the petitioners for the offences alleged.

11. At the outset, it is well settled that at the stage of consideration of discharge under Section 239 of the Cr.P.C., the



Court is required to evaluate whether the materials on record, if taken at their face value, disclose the existence of a *prima facie* case against the accused. The Court is not expected to conduct a meticulous examination of evidence or adjudicate upon the reliability or sufficiency of the materials, as such exercise falls within the domain of trial. If the materials disclose grave suspicion against the accused, the Court is justified in framing charge; however, where the allegations are inherently improbable, vague or do not disclose the essential ingredients of the alleged offences, the accused is entitled to discharge.

12. At this stage, it is apposite to reproduce some relevant paragraphs of the judgment of Hon'ble Supreme Court in the case of *Abhishek v. State of Madhya Pradesh*, reported in **(2023) 16 SCC 666** with respect to the contours of the power to quash criminal proceedings under Section 482 of the Cr.P.C. The Hon'ble Apex Court observed as under:

“16. Instances of a husband's family members filing a petition to quash criminal proceedings launched against them by his wife in the midst of matrimonial disputes are neither a rarity nor of recent origin. Precedents aplenty abound on this score. We may now take note of some decisions of particular relevance. Recently, in Kahkashan Kausar v. State of Bihar [(2022) 6 SCC 599], this Court had occasion to deal with a similar situation where the High Court had refused [Mohd. Ikram v. State of Bihar, 2019



SCC OnLine Pat 1985] to quash an FIR registered for various offences, including Section 498-AIPC. Noting that the foremost issue that required determination was whether allegations made against the in-laws were general omnibus allegations which would be liable to be quashed, this Court referred to earlier decisions wherein concern was expressed over the misuse of Section 498-AIPC and the increased tendency to implicate relatives of the husband in matrimonial disputes. This Court observed that false implications by way of general omnibus allegations made in the course of matrimonial disputes, if left unchecked, would result in misuse of the process of law. On the facts of that case, it was found that no specific allegations were made against the in-laws by the wife and it was held that allowing their prosecution in the absence of clear allegations against the in-laws would result in an abuse of the process of law. It was also noted that a criminal trial, leading to an eventual acquittal, would inflict severe scars upon the accused and such an exercise ought to be discouraged.

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19. Of more recent origin is the decision of this Court in Mahmood Ali v. State of U.P. [(2023) 15 SCC 488] on the legal principles applicable apropos Section 482 CrPC. Therein, it was observed that when an accused comes before the High Court, invoking either the inherent power under Section 482 CrPC or the extraordinary jurisdiction under Article 226 of the Constitution, to get the FIR or the criminal proceedings quashed, essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive of wreaking vengeance, then in such circumstances, the High Court owes a duty to look into the FIR with care and a



little more closely. It was further observed that it will not be enough for the court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not as, in frivolous or vexatious proceedings, the court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection, to try and read between the lines.”

13. The Hon’ble Supreme Court in *Achin Gupta v. State of Haryana and Anr.*, reported in (2025) 3 SCC 756 has observed as under:

“35. In one of the recent pronouncements of this Court in Mahmood Ali v. State of U.P. [Mahmood Ali v. State of U.P., (2023) 15 SCC 488] , authored by one of us (J.B. Pardiwala, J.), the legal principle applicable apropos Section 482CrPC was examined. Therein, it was observed that when an accused comes before the High Court, invoking either the inherent power under Section 482CrPC or the extraordinary jurisdiction under Article 226 of the Constitution, to get the FIR or the criminal proceedings quashed, essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive of wreaking vengeance, then in such circumstances, the High Court owes a duty to look into the FIR with care and a little more closely. It was further observed that it will not be enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary



ingredients to constitute the alleged offence are disclosed or not as, in frivolous or vexatious proceedings, the court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection, to try and read between the lines.”

(emphasis supplied)

14. Applying the aforesaid settled principles to the facts of the present case, it appears from the record that the allegations against the petitioners are primarily general and omnibus in nature. It further transpires that the O.P. No.2 (informant) had admittedly been residing with her husband at Delhi and not at the matrimonial home with the petitioners, which creates a serious doubt regarding the veracity of the allegations of cruelty and demand of dowry at the hands of the petitioners. Moreover, the materials brought on record, including the case diary, also indicate strained relations arising out of a love marriage performed without the consent of the petitioners, thereby lending credence to the defence plea of false implication. In such circumstances, the continuation of the criminal proceeding against the petitioners, in absence of specific and credible allegations, would not be justified.

15. In view of the discussions made hereinabove and upon careful consideration of the entire materials available on



record, this Court is of the considered opinion that the learned Trial Court has not appreciated material aspects of the case while rejecting the discharge petition. The impugned order, therefore, warrants interference by this Court, as continuation of the criminal proceeding against the present petitioners, in the facts and circumstances of the case, would not be justified.

16. Accordingly, the impugned order dated 22.05.2018 passed by the learned S.D.J.M., Banka in connection with G.R. No.69 of 2016, arising out of Banka Mahila P.S. Case No.03 of 2016, is hereby set aside so far as the present petitioners are concerned. The petitioners are discharged from the aforesaid case.

17. Resultantly, the present application stands allowed. Any further proceedings against the petitioners in connection with the aforesaid case shall remain quashed.

(Sunil Dutta Mishra, J)

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